

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Criminal No. 16-246(1) (JRT/SER)

Plaintiff,

v.

**ORDER DENYING DEFENDANT'S
MOTION FOR A MISTRIAL**

JEROME C. RUZICKA ,

Defendant.

Erica H. MacDonald, United States Attorney, and Benjamin F. Langner, Craig R. Baune, and Surya Saxena, Assistant United States Attorneys, **UNITED STATES ATTORNEY'S OFFICE**, 300 South Fourth Street, Suite 600, Minneapolis, MN 55415, for plaintiff.

John C. Conard, **JOHN C. CONARD PLLC**, 310 Fourth Avenue South, Suite 5010, Minneapolis, MN 55415, for defendant.

Defendant Jerome C. Ruzicka moves the Court to modify the appellate record pursuant to Federal Rule of Appellate Procedure 10(e)(2)(B). (Mot. to Amend/Correct the Record, May 28, 2019, Docket No. 675.) He asks that the Court order that recently overturned materials relevant to his appeal be included in the record and that those materials be forwarded to the Eighth Circuit Court of Appeals. The United States does not object to Ruzicka's request. (Response, June 3, 2019, Docket No. 689.) Accordingly, the Court will grant Ruzicka's Motion.

However, the Court notes that the relevant materials have not been added to the record, were not included as an exhibit previously, and that the Court does not have ready

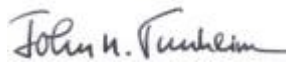
access to them. Therefore, the Court will order Ruzicka to file an affidavit attaching the materials he specifies in his Motion. The Court further orders the Clerk of Court, upon the filing of the affidavit, to prepare a supplemental record comprising those materials and a copy of this order, and to promptly forward this supplemental record to the Eighth Circuit Court of Appeals.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant Ruzicka's Motion to Amend/Correct the Record [Docket No. 675] is **GRANTED**;
2. Ruzicka is hereby ordered to file an affidavit by June 21, 2019 attaching: (1) PowerPoint slides used during a March 23, 2017 reverse professor meeting with Scott Nelson; (2) FBI Agent Brian Kinney's notes from that meeting; and (3) a post-meeting report created by Kinney.
3. The Clerk of Court is ordered to thereafter create a supplemental record comprising of the materials discussed above and this Order, and to forward this supplemental record to the Eighth Circuit Court of Appeals.

DATED: June 7, 2019
at Minneapolis, Minnesota.



JOHN R. TUNHEIM
Chief Judge
United States District Court